

**NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)

RPS920010145US1

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on August 15, 2006

Signature

Typed or printed
name

Robert A. Voigt, Jr.

In re Application of
Abbondanzio et al.

Application Number

09/981,519

Filed

October 17, 2001

For Automatically Switching Shared...

Art Unit

2195

Examiner

Kenneth Tang

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))

\$ 0.00

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ _____
- ☐ A check in the amount of the fee is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 50-0563. I have enclosed a duplicate copy of this sheet.
- ☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- ☒ attorney or agent of record.
Registration number 47,159
- ☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____

Signature

Robert A. Voigt, Jr.
Typed or printed name512.370.2832
Telephone numberAugust 15, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: : Before the Examiner:
Abbondanzio et al. : Tang, Kenneth

Serial No.: 09/981,519 : Group Art Unit: 2195

Filed: October 17, 2001 :

Title: AUTOMATICALLY SWITCHING : IBM Corporation
SHARED REMOTE DEVICES IN A : IP Law Dept. YXSA/Bldg. 002
DENSE SERVER ENVIRONMENT : 3039 Cornwallis Road
THEREBY ALLOWING THE REMOTE : P.O. Box 12195
DEVICES TO FUNCTION AS A LOCAL : Research Triangle Park, NC 27709
DEVICE :

REPLY UNDER 37 C.F.R. §1.111

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action having a mailing date of June 14, 2006, having a three-month shortened statutory period for response set to expire on September 14, 2006, Applicants respectfully reinstate the Second Appeal Brief filed on March 21, 2006 by filing herewith a third notice of appeal in compliance with 37 C.F.R. §41.31 and filing separately a complete new Appeal Brief (referred to as the "Third Appeal Brief") in compliance with 37 C.F.R. §41.37. Applicants note that any

CERTIFICATION UNDER 37 C.F.R. §1.8

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Signature

Robert A. Voigt, Jr.
(Printed name of person certifying)

fees paid for the first and second notices of appeal and for the first and second Appeal Briefs previously paid will be applied to this third appeal.

Applicants would like to make a request to Examiner Tang, SPE Meng-Ai An and to the conferee involved in the pre-trial appeal conference that they will not reopen prosecution again, but instead, allow the Examiner to file an Examiner's Answer so as to reduce the delay and expense in prosecution of this case. This is Applicants' third appeal brief in response to the second time that the Examiner has reopened prosecution. The Examiner is continually reopening prosecution because those on the pre-trial appeal conference do not believe that the Examiner will be successful in the Appeal and hence have given the Examiner numerous opportunities to strengthen the Examiner's case. This is improper and unfair. How many bites at the apple does an Examiner get? All that results is increasing the pendency of the case and further delay. If SPE Meng-Ai An and the conferee decide to let the Examiner reopen prosecution again, Applicants will be contacting the Group Director and Commerce Secretary Carlos Gutierrez regarding the lack of progress in this case.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Applicants

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